

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 222, Page 1, Section A, Line 6, by
2 inserting after all of said section and line the following:

3
4 "160.261. 1. The local board of education of each school district shall clearly establish a
5 written policy of discipline, including the district's determination on the use of corporal punishment
6 and the procedures in which punishment will be applied. A written copy of the district's discipline
7 policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or
8 legal guardian of every pupil enrolled in the district at the beginning of each school year and also
9 made available in the office of the superintendent of such district, during normal business hours, for
10 public inspection. All employees of the district shall annually receive instruction related to the
11 specific contents of the policy of discipline and any interpretations necessary to implement the
12 provisions of the policy in the course of their duties, including but not limited to approved methods
13 of dealing with acts of school violence, disciplining students with disabilities and instruction in the
14 necessity and requirements for confidentiality.

15 2. The policy shall require school administrators to report acts of school violence to all
16 teachers at the attendance center and, in addition, to other school district employees with a need to
17 know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel
18 who are directly responsible for the student's education or who otherwise interact with the student on
19 a professional basis while acting within the scope of their assigned duties. As used in this section,
20 the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a
21 student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002
22 to another person while on school property, including a school bus in service on behalf of the district,
23 or while involved in school activities. The policy shall at a minimum require school administrators
24 to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the
25 following crimes, or any act which if committed by an adult would be one of the following crimes:

- 26 (1) First degree murder under section 565.020;
27 (2) Second degree murder under section 565.021;
28 (3) Kidnapping under section 565.110;
29 (4) First degree assault under section 565.050;
30 (5) [Forcible] Rape in the first degree under section 566.030;
31 (6) [Forcible] Sodomy in the first degree under section 566.060;
32 (7) Burglary in the first degree under section 569.160;
33 (8) Burglary in the second degree under section 569.170;
34 (9) Robbery in the first degree under section 569.020;
35 (10) Distribution of drugs under section 195.211;
36 (11) Distribution of drugs to a minor under section 195.212;
37 (12) Arson in the first degree under section 569.040; (13) Voluntary manslaughter

Action Taken _____ Date _____

under section 565.023;

(14) Involuntary manslaughter under section 565.024;

(15) Second degree assault under section 565.060;

(16) [Sexual assault] Rape in the second degree under section [566.040] 566.031;

(17) Felonious restraint under section 565.120;

(18) Property damage in the first degree under section 569.100;

(19) The possession of a weapon under chapter 571;

(20) Child molestation in the first degree pursuant to section 566.067;

(21) [Deviate sexual assault] Sodomy in the second degree pursuant to section [566.070] 566.061;

(22) Sexual misconduct involving a child pursuant to section 566.083;

(23) Sexual abuse in the first degree pursuant to section 566.100;

(24) Harassment under section 565.090; or

(25) Stalking under section 565.225; committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;

(3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This

1 section shall not limit a school district's ability to:

2 (1) Prohibit all students who are suspended from being on school property or attending an
3 activity while on suspension;

4 (2) Discipline students for off-campus conduct that negatively affects the educational
5 environment to the extent allowed by law.

6 5. The policy shall provide for a suspension for a period of not less than one year, or
7 expulsion, for a student who is determined to have brought a weapon to school, including but not
8 limited to the school playground or the school parking lot, brought a weapon on a school bus or
9 brought a weapon to a school activity whether on or off of the school property in violation of district
10 policy, except that:

11 (1) The superintendent or, in a school district with no high school, the principal of the school
12 which such child attends may modify such suspension on a case-by-case basis; and

13 (2) This section shall not prevent the school district from providing educational services in
14 an alternative setting to a student suspended under the provisions of this section.

15 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under
16 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a concealable
17 firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine
18 gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this
19 section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War
20 reenactor to carry a Civil War era weapon on school property for educational purposes so long as the
21 firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such
22 definition shall include the weapons defined in this subsection but may also include other weapons.

23 7. All school district personnel responsible for the care and supervision of students are
24 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any
25 property of the school, on any school bus going to or returning from school, during school-sponsored
26 activities, or during intermission or recess periods.

27 8. Teachers and other authorized district personnel in public schools responsible for the care,
28 supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by
29 the school district, shall not be civilly liable when acting in conformity with the established policies
30 developed by each board, including but not limited to policies of student discipline or when
31 reporting to his or her supervisor or other person as mandated by state law acts of school violence or
32 threatened acts of school violence, within the course and scope of the duties of the teacher,
33 authorized district personnel or volunteer, when such individual is acting in conformity with the
34 established policies developed by the board. Nothing in this section shall be construed to create a
35 new cause of action against such school district, or to relieve the school district from liability for the
36 negligent acts of such persons.

37 9. Each school board shall define in its discipline policy acts of violence and any other acts
38 that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall
39 include but not be limited to exertion of physical force by a student with the intent to do serious
40 bodily harm to another person while on school property, including a school bus in service on behalf
41 of the district, or while involved in school activities. School districts shall for each student enrolled
42 in the school district compile and maintain records of any serious violation of the district's discipline
43 policy. Such records shall be made available to teachers and other school district employees with a
44 need to know while acting within the scope of their assigned duties, and shall be provided as required
45 in section 167.020 to any school district in which the student subsequently attempts to enroll.

46 10. Spanking, when administered by certificated personnel and in the presence of a witness
47 who is an employee of the school district, or the use of reasonable force to protect persons or
48 property, when administered by personnel of a school district in a reasonable manner in accordance

1 with the local board of education's written policy of discipline, is not abuse within the meaning of
2 chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the children's division
3 shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or
4 related to the use of reasonable force to protect persons or property when administered by personnel
5 of a school district or any spanking administered in a reasonable manner by any certificated school
6 personnel in the presence of a witness who is an employee of the school district pursuant to a written
7 policy of discipline established by the board of education of the school district, as long as no
8 allegation of sexual misconduct arises from the spanking or use of force.

9 11. If a student reports alleged sexual misconduct on the part of a teacher or other school
10 employee to a person employed in a school facility who is required to report such misconduct to the
11 children's division under section 210.115, such person and the superintendent of the school district
12 shall forward the allegation to the children's division within twenty-four hours of receiving the
13 information. Reports made to the children's division under this subsection shall be investigated by
14 the division in accordance with the provisions of sections 210.145 to 210.153 and shall not be
15 investigated by the school district under subsections 12 to 20 of this section for purposes of
16 determining whether the allegations should or should not be substantiated. The district may
17 investigate the allegations for the purpose of making any decision regarding the employment of the
18 accused employee.

19 12. Upon receipt of any reports of child abuse by the children's division other than reports
20 provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165 which
21 allegedly involve personnel of a school district, the children's division shall notify the superintendent
22 of schools of the district or, if the person named in the alleged incident is the superintendent of
23 schools, the president of the school board of the school district where the alleged incident occurred.

24 13. If, after an initial investigation, the superintendent of schools or the president of the
25 school board finds that the report involves an alleged incident of child abuse other than the
26 administration of a spanking by certificated school personnel or the use of reasonable force to protect
27 persons or property when administered by school personnel pursuant to a written policy of discipline
28 or that the report was made for the sole purpose of harassing a public school employee, the
29 superintendent of schools or the president of the school board shall immediately refer the matter
30 back to the children's division and take no further action. In all matters referred back to the
31 children's division, the division shall treat the report in the same manner as other reports of alleged
32 child abuse received by the division.

33 14. If the report pertains to an alleged incident which arose out of or is related to a spanking
34 administered by certificated personnel or the use of reasonable force to protect persons or property
35 when administered by personnel of a school district pursuant to a written policy of discipline or a
36 report made for the sole purpose of harassing a public school employee, a notification of the reported
37 child abuse shall be sent by the superintendent of schools or the president of the school board to the
38 law enforcement in the county in which the alleged incident occurred.

39 15. The report shall be jointly investigated by the law enforcement officer and the
40 superintendent of schools or, if the subject of the report is the superintendent of schools, by a law
41 enforcement officer and the president of the school board or such president's designee.

42 16. The investigation shall begin no later than forty-eight hours after notification from the
43 children's division is received, and shall consist of, but need not be limited to, interviewing and
44 recording statements of the child and the child's parents or guardian within two working days after
45 the start of the investigation, of the school district personnel allegedly involved in the report, and of
46 any witnesses to the alleged incident.

47 17. The law enforcement officer and the investigating school district personnel shall issue
48 separate reports of their findings and recommendations after the conclusion of the investigation to

the school board of the school district within seven days after receiving notice from the children's division.

18. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

19. The school board shall consider the separate reports referred to in subsection 17 of this section and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer and the investigating school board personnel agree that there was not a preponderance of evidence to substantiate that abuse occurred;

(2) The report of the alleged child abuse is substantiated. The law enforcement officer and the investigating school district personnel agree that the preponderance of evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The law enforcement officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

20. The findings and conclusions of the school board under subsection 19 of this section shall be sent to the children's division. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the children's division central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the children's division unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

21. Any superintendent of schools, president of a school board or such person's designee or law enforcement officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

22. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

167.115. 1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary, the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall, as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of the school district in which the pupil is enrolled when a petition is filed pursuant to subsection 1 of section 211.031 alleging that the pupil has committed one of the following acts:

(1) First degree murder under section 565.020;

(2) Second degree murder under section 565.021;

(3) Kidnapping under section 565.110;

(4) First degree assault under section 565.050;

(5) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the

1 first degree under section 566.030;

2 (6) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy
 3 in the first degree under section 566.060;

4 (7) Burglary in the first degree under section 569.160;

5 (8) Robbery in the first degree under section 569.020;

6 (9) Distribution of drugs under section 195.211;

7 (10) Distribution of drugs to a minor under section 195.212;

8 (11) Arson in the first degree under section 569.040;

9 (12) Voluntary manslaughter under section 565.023;

10 (13) Involuntary manslaughter under section 565.024;

11 (14) Second degree assault under section 565.060;

12 (15) Sexual assault under section 566.040 as it existed prior to August 28, 2013, or rape in
 13 the second degree under section 566.031;

14 (16) Felonious restraint under section 565.120;

15 (17) Property damage in the first degree under section 569.100;

16 (18) The possession of a weapon under chapter 571;

17 (19) Child molestation in the first degree pursuant to section 566.067;

18 (20) Deviate sexual assault pursuant to section 566.070 as it existed prior to August 28,
 19 2013, or sodomy in the second degree under section 566.061;

20 (21) Sexual misconduct involving a child pursuant to section 566.083; or

21 (22) Sexual abuse pursuant to section 566.100 as it existed prior to August 28, 2013, or
 22 sexual abuse in the first degree under section 566.100.

23 2. The notification shall be made orally or in writing, in a timely manner, no later than five
 24 days following the filing of the petition. If the report is made orally, written notice shall follow in a
 25 timely manner. The notification shall include a complete description of the conduct the pupil is
 26 alleged to have committed and the dates the conduct occurred but shall not include the name of any
 27 victim. Upon the disposition of any such case, the juvenile office or prosecuting attorney or their
 28 designee shall send a second notification to the superintendent providing the disposition of the case,
 29 including a brief summary of the relevant finding of facts, no later than five days following the
 30 disposition of the case.

31 3. The superintendent or the designee of the superintendent shall report such information to
 32 teachers and other school district employees with a need to know while acting within the scope of
 33 their assigned duties. Any information received by school district officials pursuant to this section
 34 shall be received in confidence and used for the limited purpose of assuring that good order and
 35 discipline is maintained in the school. This information shall not be used as the sole basis for not
 36 providing educational services to a public school pupil.

37 4. The superintendent shall notify the appropriate division of the juvenile or family court
 38 upon any pupil's suspension for more than ten days or expulsion of any pupil that the school district
 39 is aware is under the jurisdiction of the court.

40 5. The superintendent or the superintendent's designee may be called to serve in a consultant
 41 capacity at any dispositional proceedings pursuant to section 211.031 which may involve reference
 42 to a pupil's academic treatment plan.

43 6. Upon the transfer of any pupil described in this section to any other school district in this
 44 state, the superintendent or the superintendent's designee shall forward the written notification given
 45 to the superintendent pursuant to subsection 2 of this section to the superintendent of the new school
 46 district in which the pupil has enrolled. Such written notification shall be required again in the event
 47 of any subsequent transfer by the pupil.

48 7. As used in this section, the terms "school" and "school district" shall include any charter,

1 private or parochial school or school district, and the term "superintendent" shall include the
2 principal or equivalent chief school officer in the cases of charter, private or parochial schools.

3 8. The superintendent or the designee of the superintendent or other school employee who,
4 in good faith, reports information in accordance with the terms of this section and section 160.261
5 shall not be civilly liable for providing such information.

6 167.171. 1. The school board in any district, by general rule and for the causes provided in
7 section 167.161, may authorize the summary suspension of pupils by principals of schools for a
8 period not to exceed ten school days and by the superintendent of schools for a period not to exceed
9 one hundred and eighty school days. In case of a suspension by the superintendent for more than ten
10 school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the
11 decision of the superintendent to the board or to a committee of board members appointed by the
12 president of the board which shall have full authority to act in lieu of the board. Any suspension by a
13 principal shall be immediately reported to the superintendent who may revoke the suspension at any
14 time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report
15 in writing of the facts relating to the suspension, the action taken by the superintendent and the
16 reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be
17 conducted as provided in section 167.161.

18 2. No pupil shall be suspended unless:

19 (1) The pupil shall be given oral or written notice of the charges against such pupil;

20 (2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of
21 the facts which form the basis of the proposed suspension;

22 (3) The pupil shall be given an opportunity to present such pupil's version of the incident;
23 and

24 (4) In the event of a suspension for more than ten school days, where the pupil gives notice
25 that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the
26 board renders its decision, unless in the judgment of the superintendent of schools, or of the district
27 superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing
28 threat of disrupting the academic process, in which case the pupil may be immediately removed from
29 school, and the notice and hearing shall follow as soon as practicable.

30 3. No school board shall readmit or enroll a pupil properly suspended for more than ten
31 consecutive school days for an act of school violence as defined in subsection 2 of section 160.261
32 regardless of whether or not such act was committed at a public school or at a private school in this
33 state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the
34 case of a private school, or otherwise permit such pupil to attend school without first holding a
35 conference to review the conduct that resulted in the expulsion or suspension and any remedial
36 actions needed to prevent any future occurrences of such or related conduct. The conference shall
37 include the appropriate school officials including any teacher employed in that school or district
38 directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent
39 or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil.
40 The school board shall notify in writing the parents or guardians and all other parties of the time,
41 place, and agenda of any such conference. Failure of any party to attend this conference shall not
42 preclude holding the conference. Notwithstanding any provision of this subsection to the contrary,
43 no pupil shall be readmitted or enrolled to a regular program of instruction if:

44 (1) Such pupil has been convicted of; or

45 (2) An indictment or information has been filed alleging that the pupil has committed one of
46 the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment;
47 or

48 (3) A petition has been filed pursuant to section 211.091 alleging that the pupil has

committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:

(a) First degree murder under section 565.020;

(b) Second degree murder under section 565.021;

(c) First degree assault under section 565.050;

(d) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;

(e) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;

(f) Statutory rape under section 566.032;

(g) Statutory sodomy under section 566.062;

(h) Robbery in the first degree under section 569.020;

(i) Distribution of drugs to a minor under section 195.212;

(j) Arson in the first degree under section 569.040;

(k) Kidnapping, when classified as a class A felony under section 565.110. Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

4. If a pupil is attempting to enroll in a school district during a suspension or expulsion from another in-state or out-of-state school district including a private, charter or parochial school or school district, a conference with the superintendent or the superintendent's designee may be held at the request of the parent, court-appointed legal guardian, someone acting as a parent as defined by rule in the case of a special education student, or the pupil to consider if the conduct of the pupil would have resulted in a suspension or expulsion in the district in which the pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee that such conduct would have resulted in a suspension or expulsion in the district in which the pupil is enrolling or attempting to enroll, the school district may make such suspension or expulsion from another school or district effective in the district in which the pupil is enrolling or attempting to enroll. Upon a determination by the superintendent or the superintendent's designee that such conduct would not have resulted in a suspension or expulsion in the district in which the student is enrolling or attempting to enroll, the school district shall not make such suspension or expulsion effective in its district in which the student is enrolling or attempting to enroll.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:

(1) A certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud, deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

(4) A certificate holder has been subject to disciplinary action relating to certification issued

1 by another state, territory, federal agency, or country upon grounds for which discipline is authorized
2 in this section; or

3 (5) If charges are filed by the local board of education, based upon the annulling of a written
4 contract with the local board of education, for reasons other than election to the general assembly,
5 without the consent of the majority of the members of the board that is a party to the contract.

6 2. A public school district may file charges seeking the discipline of a holder of a certificate
7 of license to teach based upon any cause or combination of causes outlined in subsection 1 of this
8 section, including annulment of a written contract. Charges shall be in writing, specify the basis for
9 the charges, and be signed by the chief administrative officer of the district, or by the president of the
10 board of education as authorized by a majority of the board of education. The board of education
11 may also petition the office of the attorney general to file charges on behalf of the school district for
12 any cause other than annulment of contract, with acceptance of the petition at the discretion of the
13 attorney general.

14 3. The department of elementary and secondary education may file charges seeking the
15 discipline of a holder of a certificate of license to teach based upon any cause or combination of
16 causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall be in
17 writing, specify the basis for the charges, and be signed by legal counsel representing the department
18 of elementary and secondary education.

19 4. If the underlying conduct or actions which are the basis for charges filed pursuant to this
20 section are also the subject of a pending criminal charge against the person holding such certificate,
21 the certificate holder may request, in writing, a delayed hearing on advice of counsel under the fifth
22 amendment of the Constitution of the United States. Based upon such a request, no hearing shall be
23 held until after a trial has been completed on this criminal charge.

24 5. The certificate holder shall be given not less than thirty days' notice of any hearing held
25 pursuant to this section.

26 6. Other provisions of this section notwithstanding, the certificate of license to teach shall be
27 revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or
28 applicant has pleaded guilty to or been found guilty of any of the following offenses established
29 pursuant to Missouri law or offenses of a similar nature established under the laws of any other state
30 or of the United States, or any other country, whether or not the sentence is imposed:

31 (1) Any dangerous felony as defined in section 556.061, or murder in the first degree under
32 section 565.020;

33 (2) Any of the following sexual offenses: rape in the first degree under section 566.030;
34 forcible rape under section 566.030 as it existed prior to August 28, 2013; rape as it existed prior to
35 August 13, 1980; statutory rape in the first degree under section 566.032; statutory rape in the second
36 degree under section 566.034; rape in the second degree under section 566.031; sexual assault under
37 section 566.040 as it existed prior to August 28, 2013; sodomy in the first degree under section
38 566.060; forcible sodomy under section 566.060 as it existed prior to August 28, 2013; sodomy as it
39 existed prior to January 1, 1995; statutory sodomy in the first degree under section 566.062; statutory
40 sodomy in the second degree under section 566.064; child molestation in the first degree under
41 section 566.067; child molestation in the second degree under section 566.068; sodomy in the second
42 degree under section 566.061; deviate sexual assault under section 566.070 as it existed prior to
43 August 28, 2013; sexual misconduct involving a child under section 566.083; sexual contact with a
44 student while on public school property under section 566.086; sexual misconduct in the first degree
45 under section 566.093; sexual misconduct in the first degree under section 566.090 as it existed prior
46 to August 28, 2013; sexual misconduct in the second degree under section 566.095; sexual
47 misconduct in the second degree under section 566.093 as it existed prior to August 28, 2013; sexual
48 misconduct in the third degree under section 566.095 as it existed prior to August 28, 2013; sexual

1 abuse in the first degree under section 566.100; sexual abuse under section 566.100 as it existed prior
 2 to August 28, 2013; sexual abuse in the second degree under section 566.101; enticement of a child
 3 under section 566.151; or attempting to entice a child;

4 (3) Any of the following offenses against the family and related offenses: incest under
 5 section 568.020; abandonment of child in the first degree under section 568.030; abandonment of
 6 child in the second degree under section 568.032; endangering the welfare of a child in the first
 7 degree under section 568.045; abuse of a child under section 568.060; child used in a sexual
 8 performance under section 568.080; promoting sexual performance by a child under section
 9 568.090; or trafficking in children under section 568.175; and

10 (4) Any of the following offenses involving child pornography and related offenses:
 11 promoting obscenity in the first degree under section 573.020; promoting obscenity in the second
 12 degree when the penalty is enhanced to a class D felony under section 573.030; promoting child
 13 pornography in the first degree under section 573.025; promoting child pornography in the second
 14 degree under section 573.035; possession of child pornography under section 573.037; furnishing
 15 pornographic materials to minors under section 573.040; or coercing acceptance of obscene material
 16 under section 573.065.

17 7. When a certificate holder pleads guilty or is found guilty of any offense that would
 18 authorize the state board of education to seek discipline against that holder's certificate of license to
 19 teach, the local board of education or the department of elementary and secondary education shall
 20 immediately provide written notice to the state board of education and the attorney general regarding
 21 the plea of guilty or finding of guilty.

22 8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this
 23 section may appeal such revocation to the state board of education. Notice of this appeal must be
 24 received by the commissioner of education within ninety days of notice of revocation pursuant to
 25 this subsection. Failure of the certificate holder to notify the commissioner of the intent to appeal
 26 waives all rights to appeal the revocation. Upon notice of the certificate holder's intent to appeal, an
 27 appeal hearing shall be held by a hearing officer designated by the commissioner of education, with
 28 the final decision made by the state board of education, based upon the record of that hearing. The
 29 certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to
 30 be heard by the hearing officer, together with witnesses.

31 9. In the case of any certificate holder who has surrendered or failed to renew his or her
 32 certificate of license to teach, the state board of education may refuse to issue or renew, or may
 33 suspend or revoke, such certificate for any of the reasons contained in this section.

34 10. In those cases where the charges filed pursuant to this section are based upon an
 35 allegation of misconduct involving a minor child, the hearing officer may accept into the record the
 36 sworn testimony of the minor child relating to the misconduct received in any court or administrative
 37 hearing.

38 11. Hearings, appeals or other matters involving certificate holders, licensees or applicants
 39 pursuant to this section may be informally resolved by consent agreement or agreed settlement or
 40 voluntary surrender of the certificate of license pursuant to the rules promulgated by the state board
 41 of education.

42 12. The final decision of the state board of education is subject to judicial review pursuant to
 43 sections 536.100 to 536.140.

44 13. A certificate of license to teach to an individual who has been convicted of a felony or
 45 crime involving moral turpitude, whether or not sentence is imposed, shall be issued only upon
 46 motion of the state board of education adopted by a unanimous affirmative vote of those members
 47 present and voting.

48 188.023. Any licensed health care professional who delivers a baby or performs an abortion,

1 who has prima facie evidence that a patient has been the victim of statutory rape in the first degree or
2 statutory rape in the second degree, or if the patient is under the age of eighteen, that he or she has
3 been a victim of sexual abuse, including [forcible rape, sexual assault] rape in the first or second
4 degree, or incest, shall be required to report such offenses in the same manner as provided for by
5 section 210.115.

6 211.071. 1. If a petition alleges that a child between the ages of twelve and seventeen has
7 committed an offense which would be considered a felony if committed by an adult, the court may,
8 upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a
9 hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court
10 of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any
11 child has committed an offense which would be considered first degree murder under section
12 565.020, second degree murder under section 565.021, first degree assault under section 565.050,
13 forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first degree
14 under section 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013,
15 sodomy in the first degree under section 566.060, first degree robbery under section 569.020, or
16 distribution of drugs under section 195.211, or has committed two or more prior unrelated offenses
17 which would be felonies if committed by an adult, the court shall order a hearing, and may in its
18 discretion, dismiss the petition and transfer the child to a court of general jurisdiction for prosecution
19 under the general law.

20 2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly committed
21 by any person between seventeen and twenty-one years of age over whom the juvenile court has
22 retained continuing jurisdiction shall automatically terminate and that offense shall be dealt with in
23 the court of general jurisdiction as provided in section 211.041.

24 3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any
25 action or proceeding which occurs based upon the misrepresentation. Any evidence obtained during
26 the period of time in which a child misrepresents his or her age may be used against the child and
27 will be subject only to rules of evidence applicable in adult proceedings.

28 4. Written notification of a transfer hearing shall be given to the juvenile and his or her
29 custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the hearing
30 may be waived by the custodian. Notice shall contain a statement that the purpose of the hearing is
31 to determine whether the child is a proper subject to be dealt with under the provisions of this
32 chapter, and that if the court finds that the child is not a proper subject to be dealt with under the
33 provisions of this chapter, the petition will be dismissed to allow for prosecution of the child under
34 the general law.

35 5. The juvenile officer may consult with the office of prosecuting attorney concerning any
36 offense for which the child could be certified as an adult under this section. The prosecuting or
37 circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile officer,
38 statements of witnesses and all other records or reports relating to the offense alleged to have been
39 committed by the child. The prosecuting or circuit attorney shall have access to the disposition
40 records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1
41 of section 211.031. The prosecuting attorney shall not divulge any information regarding the child
42 and the offense until the juvenile court at a judicial hearing has determined that the child is not a
43 proper subject to be dealt with under the provisions of this chapter.

44 6. A written report shall be prepared in accordance with this chapter developing fully all
45 available information relevant to the criteria which shall be considered by the court in determining
46 whether the child is a proper subject to be dealt with under the provisions of this chapter and whether
47 there are reasonable prospects of rehabilitation within the juvenile justice system. These criteria
48 shall include but not be limited to:

- 1 (1) The seriousness of the offense alleged and whether the protection of the community
2 requires transfer to the court of general jurisdiction;
- 3 (2) Whether the offense alleged involved viciousness, force and violence;
- 4 (3) Whether the offense alleged was against persons or property with greater weight being
5 given to the offense against persons, especially if personal injury resulted;
- 6 (4) Whether the offense alleged is a part of a repetitive pattern of offenses which indicates
7 that the child may be beyond rehabilitation under the juvenile code;
- 8 (5) The record and history of the child, including experience with the juvenile justice system,
9 other courts, supervision, commitments to juvenile institutions and other placements;
- 10 (6) The sophistication and maturity of the child as determined by consideration of his home
11 and environmental situation, emotional condition and pattern of living;
- 12 (7) The age of the child;
- 13 (8) The program and facilities available to the juvenile court in considering disposition;
- 14 (9) Whether or not the child can benefit from the treatment or rehabilitative programs
15 available to the juvenile court; and
- 16 (10) Racial disparity in certification.

17 7. If the court dismisses the petition to permit the child to be prosecuted under the general
18 law, the court shall enter a dismissal order containing:

- 19 (1) Findings showing that the court had jurisdiction of the cause and of the parties;
- 20 (2) Findings showing that the child was represented by counsel;
- 21 (3) Findings showing that the hearing was held in the presence of the child and his counsel;
- 22 and
- 23 (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

24 8. A copy of the petition and order of the dismissal shall be sent to the prosecuting attorney.

25 9. When a petition has been dismissed thereby permitting a child to be prosecuted under the
26 general law, the jurisdiction of the juvenile court over that child is forever terminated, except as
27 provided in subsection 10 of this section, for an act that would be a violation of a state law or
28 municipal ordinance.

29 10. If a petition has been dismissed thereby permitting a child to be prosecuted under the
30 general law and the child is found not guilty by a court of general jurisdiction, the juvenile court
31 shall have jurisdiction over any later offense committed by that child which would be considered a
32 misdemeanor or felony if committed by an adult, subject to the certification provisions of this
33 section.

34 11. If the court does not dismiss the petition to permit the child to be prosecuted under the
35 general law, it shall set a date for the hearing upon the petition as provided in section 211.171.

36 211.447. 1. Any information that could justify the filing of a petition to terminate parental
37 rights may be referred to the juvenile officer by any person. The juvenile officer shall make a
38 preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed,
39 such officer shall so notify the informant in writing within thirty days of the referral. Such
40 notification shall include the reasons that the petition will not be filed. Thereupon, the informant
41 may bring the matter directly to the attention of the judge of the juvenile court by presenting the
42 information in writing, and if it appears to the judge that the information could justify the filing of a
43 petition, the judge may order the juvenile officer to take further action, including making a further
44 preliminary inquiry or filing a petition.

45 2. Except as provided for in subsection 4 of this section, a petition to terminate the parental
46 rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a
47 petition has been filed by another party, the juvenile officer or the division shall seek to be joined as
48 a party to the petition, when:

1 (1) Information available to the juvenile officer or the division establishes that the child has
2 been in foster care for at least fifteen of the most recent twenty-two months; or

3 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
4 For purposes of this subdivision, an "infant" means any child one year of age or under at the time of
5 filing of the petition. The court may find that an infant has been abandoned if:

6 (a) The parent has left the child under circumstances that the identity of the child was
7 unknown and could not be ascertained, despite diligent searching, and the parent has not come
8 forward to claim the child; or

9 (b) The parent has, without good cause, left the child without any provision for parental
10 support and without making arrangements to visit or communicate with the child, although able to
11 do so; or

12 (3) A court of competent jurisdiction has determined that the parent has:

13 (a) Committed murder of another child of the parent; or

14 (b) Committed voluntary manslaughter of another child of the parent; or

15 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary
16 manslaughter; or

17 (d) Committed a felony assault that resulted in serious bodily injury to the child or to another
18 child of the parent.

19 3. A termination of parental rights petition shall be filed by the juvenile officer or the
20 division, or if such a petition has been filed by another party, the juvenile officer or the division shall
21 seek to be joined as a party to the petition, within sixty days of the judicial determinations required in
22 subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply
23 with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for
24 termination of parental rights which is filed outside of sixty days.

25 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section,
26 the juvenile officer or the division may, but is not required to, file a petition to terminate the parental
27 rights of the child's parent or parents if:

28 (1) The child is being cared for by a relative; or

29 (2) There exists a compelling reason for determining that filing such a petition would not be
30 in the best interest of the child, as documented in the permanency plan which shall be made available
31 for court review; or

32 (3) The family of the child has not been provided such services as provided for in section
33 211.183.

34 5. The juvenile officer or the division may file a petition to terminate the parental rights of
35 the child's parent when it appears that one or more of the following grounds for termination exist:

36 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
37 child over one year of age at the time of filing of the petition. The court shall find that the child has
38 been abandoned if, for a period of six months or longer:

39 (a) The parent has left the child under such circumstances that the identity of the child was
40 unknown and could not be ascertained, despite diligent searching, and the parent has not come
41 forward to claim the child; or

42 (b) The parent has, without good cause, left the child without any provision for parental
43 support and without making arrangements to visit or communicate with the child, although able to
44 do so;

45 (2) The child has been abused or neglected. In determining whether to terminate parental
46 rights pursuant to this subdivision, the court shall consider and make findings on the following
47 conditions or acts of the parent:

48 (a) A mental condition which is shown by competent evidence either to be permanent or

1 such that there is no reasonable likelihood that the condition can be reversed and which renders the
 2 parent unable to knowingly provide the child the necessary care, custody and control;

3 (b) Chemical dependency which prevents the parent from consistently providing the
 4 necessary care, custody and control of the child and which cannot be treated so as to enable the
 5 parent to consistently provide such care, custody and control;

6 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or
 7 any child in the family by the parent, including an act of incest, or by another under circumstances
 8 that indicate that the parent knew or should have known that such acts were being committed toward
 9 the child or any child in the family; or

10 (d) Repeated or continuous failure by the parent, although physically or financially able, to
 11 provide the child with adequate food, clothing, shelter, or education as defined by law, or other care
 12 and control necessary for the child's physical, mental, or emotional health and development.
 13 Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or
 14 disease;

15 (3) The child has been under the jurisdiction of the juvenile court for a period of one year,
 16 and the court finds that the conditions which led to the assumption of jurisdiction still persist, or
 17 conditions of a potentially harmful nature continue to exist, that there is little likelihood that those
 18 conditions will be remedied at an early date so that the child can be returned to the parent in the near
 19 future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for
 20 early integration into a stable and permanent home. In determining whether to terminate parental
 21 rights under this subdivision, the court shall consider and make findings on the following:

22 (a) The terms of a social service plan entered into by the parent and the division and the
 23 extent to which the parties have made progress in complying with those terms;

24 (b) The success or failure of the efforts of the juvenile officer, the division or other agency to
 25 aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper
 26 home for the child;

27 (c) A mental condition which is shown by competent evidence either to be permanent or
 28 such that there is no reasonable likelihood that the condition can be reversed and which renders the
 29 parent unable to knowingly provide the child the necessary care, custody and control;

30 (d) Chemical dependency which prevents the parent from consistently providing the
 31 necessary care, custody and control over the child and which cannot be treated so as to enable the
 32 parent to consistently provide such care, custody and control; or

33 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566 when
 34 the child or any child in the family was a victim, or a violation of section 568.020 when the child or
 35 any child in the family was a victim. As used in this subdivision, a "child" means any person who
 36 was under eighteen years of age at the time of the crime and who resided with such parent or was
 37 related within the third degree of consanguinity or affinity to such parent; or

38 (5) The child was conceived and born as a result of an act of forcible rape or rape in the first
 39 degree. When the biological father has pled guilty to, or is convicted of, the forcible rape or rape in
 40 the first degree of the birth mother, such a plea or conviction shall be conclusive evidence supporting
 41 the termination of the biological father's parental rights; or

42 (6) The parent is unfit to be a party to the parent and child relationship because of a
 43 consistent pattern of committing a specific abuse, including but not limited to abuses as defined in
 44 section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating
 45 to the parent and child relationship either of which are determined by the court to be of a duration or
 46 nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for
 47 the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to
 48 be a party to the parent-child relationship upon a showing that within a three-year period

1 immediately prior to the termination adjudication, the parent's parental rights to one or more other
 2 children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions
 3 (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

4 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by
 5 the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds
 6 that the termination is in the best interest of the child and when it appears by clear, cogent and
 7 convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this
 8 section.

9 7. When considering whether to terminate the parent-child relationship pursuant to
 10 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the
 11 court shall evaluate and make findings on the following factors, when appropriate and applicable to
 12 the case:

- 13 (1) The emotional ties to the birth parent;
- 14 (2) The extent to which the parent has maintained regular visitation or other contact with the
 15 child;
- 16 (3) The extent of payment by the parent for the cost of care and maintenance of the child
 17 when financially able to do so including the time that the child is in the custody of the division or
 18 other child-placing agency;
- 19 (4) Whether additional services would be likely to bring about lasting parental adjustment
 20 enabling a return of the child to the parent within an ascertainable period of time;
- 21 (5) The parent's disinterest in or lack of commitment to the child;
- 22 (6) The conviction of the parent of a felony offense that the court finds is of such a nature
 23 that the child will be deprived of a stable home for a period of years; provided, however, that
 24 incarceration in and of itself shall not be grounds for termination of parental rights;
- 25 (7) Deliberate acts of the parent or acts of another of which the parent knew or should have
 26 known that subjects the child to a substantial risk of physical or mental harm.

27 8. The court may attach little or no weight to infrequent visitations, communications, or
 28 contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child
 29 relationship may serve as an inducement for the parent's rehabilitation.

30 9. In actions for adoption pursuant to chapter 453, the court may hear and determine the
 31 issues raised in a petition for adoption containing a prayer for termination of parental rights filed
 32 with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

33 10. The disability or disease of a parent shall not constitute a basis for a determination that a
 34 child is a child in need of care, for the removal of custody of a child from the parent, or for the
 35 termination of parental rights without a specific showing that there is a causal relation between the
 36 disability or disease and harm to the child.

37 217.010. As used in this chapter and chapter 558, unless the context clearly indicates
 38 otherwise, the following terms shall mean:

- 39 (1) "Administrative segregation unit", a cell for the segregation of offenders from the general
 40 population of a facility for relatively extensive periods of time;
- 41 (2) "Board", the board of probation and parole;
- 42 (3) "Chief administrative officer", the institutional head of any correctional facility or his
 43 designee;
- 44 (4) "Correctional center", any premises or institution where incarceration, evaluation, care,
 45 treatment, or rehabilitation is provided to persons who are under the department's authority;
- 46 (5) "Department", the department of corrections of the state of Missouri;
- 47 (6) "Director", the director of the department of corrections or his designee;
- 48 (7) "Disciplinary segregation", a cell for the segregation of offenders from the general

1 population of a correctional center because the offender has been found to have committed a
 2 violation of a division or facility rule and other available means are inadequate to regulate the
 3 offender's behavior;

4 (8) "Division", a statutorily created agency within the department or an agency created by
 5 the departmental organizational plan;

6 (9) "Division director", the director of a division of the department or his designee;

7 (10) "Local volunteer community board", a board of qualified local community volunteers
 8 selected by the court for the purpose of working in partnership with the court and the department of
 9 corrections in a reparative probation program;

10 (11) "Nonviolent offender", any offender who is convicted of a crime other than murder in
 11 the first or second degree, involuntary manslaughter, kidnapping, rape in the first degree, forcible
 12 rape, sodomy in the first degree, forcible sodomy, robbery in the first degree or assault in the first
 13 degree;

14 (12) "Offender", a person under supervision or an inmate in the custody of the department;

15 (13) "Probation", a procedure under which a defendant found guilty of a crime upon verdict
 16 or plea is released by the court without imprisonment, subject to conditions imposed by the court and
 17 subject to the supervision of the board;

18 (14) "Volunteer", any person who, of his own free will, performs any assigned duties for the
 19 department or its divisions with no monetary or material compensation.

20 339.100. 1. The commission may, upon its own motion, and shall upon receipt of a written
 21 complaint filed by any person, investigate any real estate-related activity of a licensee licensed under
 22 sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or entity acting as or
 23 representing themselves as a real estate licensee. In conducting such investigation, if the questioned
 24 activity or written complaint involves an affiliated licensee, the commission may forward a copy of
 25 the information received to the affiliated licensee's designated broker. The commission shall have
 26 the power to hold an investigatory hearing to determine whether there is a probability of a violation
 27 of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall have the
 28 power to issue a subpoena to compel the production of records and papers bearing on the complaint.
 29 The commission shall have the power to issue a subpoena and to compel any person in this state to
 30 come before the commission to offer testimony or any material specified in the subpoena.
 31 Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same
 32 manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that
 33 allowed in the circuit court in civil cases.

34 2. The commission may cause a complaint to be filed with the administrative hearing
 35 commission as provided by the provisions of chapter 621 against any person or entity licensed under
 36 this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity
 37 license for any one or any combination of the following acts:

38 (1) Failure to maintain and deposit in a special account, separate and apart from his or her
 39 personal or other business accounts, all moneys belonging to others entrusted to him or her while
 40 acting as a real estate broker or as the temporary custodian of the funds of others, until the
 41 transaction involved is consummated or terminated, unless all parties having an interest in the funds
 42 have agreed otherwise in writing;

43 (2) Making substantial misrepresentations or false promises or suppression, concealment or
 44 omission of material facts in the conduct of his or her business or pursuing a flagrant and continued
 45 course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

46 (3) Failing within a reasonable time to account for or to remit any moneys, valuable
 47 documents or other property, coming into his or her possession, which belongs to others;

48 (4) Representing to any lender, guaranteeing agency, or any other interested party, either

1 verbally or through the preparation of false documents, an amount in excess of the true and actual
2 sale price of the real estate or terms differing from those actually agreed upon;

3 (5) Failure to timely deliver a duplicate original of any and all instruments to any party or
4 parties executing the same where the instruments have been prepared by the licensee or under his or
5 her supervision or are within his or her control, including, but not limited to, the instruments relating
6 to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing
7 agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction
8 in which he or she may participate as a licensee;

9 (6) Acting for more than one party in a transaction without the knowledge of all parties for
10 whom he or she acts, or accepting a commission or valuable consideration for services from more
11 than one party in a real estate transaction without the knowledge of all parties to the transaction;

12 (7) Paying a commission or valuable consideration to any person for acts or services
13 performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

14 (8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits
15 which may result from the resale of real property;

16 (9) Having been finally adjudicated and been found guilty of the violation of any state or
17 federal statute which governs the sale or rental of real property or the conduct of the real estate
18 business as defined in subsection 1 of section 339.010;

19 (10) Obtaining a certificate or registration of authority, permit or license for himself or
20 herself or anyone else by false or fraudulent representation, fraud or deceit;

21 (11) Representing a real estate broker other than the broker with whom associated without
22 the express written consent of the broker with whom associated;

23 (12) Accepting a commission or valuable consideration for the performance of any of the
24 acts referred to in section 339.010 from any person except the broker with whom associated at the
25 time the commission or valuable consideration was earned;

26 (13) Using prizes, money, gifts or other valuable consideration as inducement to secure
27 customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money,
28 gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or
29 soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or
30 contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of
31 real property;

32 (14) Placing a sign on or advertising any property offering it for sale or rent without the
33 written consent of the owner or his or her duly authorized agent;

34 (15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any
35 person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or
36 of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

37 (16) Committing any act which would otherwise be grounds for the commission to refuse to
38 issue a license under section 339.040;

39 (17) Failure to timely inform seller of all written offers unless otherwise instructed in writing
40 by the seller;

41 (18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo
42 contendere, in a criminal prosecution under the laws of this state or any other state or of the United
43 States, for any offense reasonably related to the qualifications, functions or duties of any profession
44 licensed or regulated under this chapter, for any offense an essential element of which is fraud,
45 dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not
46 sentence is imposed;

47 (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business
48 dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

(20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

(21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

(22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860;

(24) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(25) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or license renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision;

(26) Engaging in, committing, or assisting any person in engaging in or committing mortgage fraud, as defined in section 443.930.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate, or the imposition of a civil penalty by the commission not to exceed two thousand five hundred dollars for each offense. Each day of a continued violation shall constitute a separate offense.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(1) Any dangerous felony as defined under section 556.061 or murder in the first degree;

(2) Any of the following sexual offenses: rape in the first degree, forcible rape, rape, statutory rape in the first degree, statutory rape in the second degree, rape in the second degree, sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree under section 566.090 as it existed prior to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August 28, 2013, sexual abuse in the first or second degree, enticement of a child, or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children;

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class D felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material; and

(5) Mortgage fraud as defined in section 570.310.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of revocation. Failure of a person whose license was revoked to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission."; and

Further amend said bill, Page 16, Section 527.290, Line 14, by inserting after all of said section and line the following:

"556.036. 1. A prosecution for murder, rape in the first degree, forcible rape, attempted rape in the first degree, attempted forcible rape, sodomy in the first degree, forcible sodomy, attempted sodomy in the first degree, attempted forcible sodomy, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

(1) For any felony, three years, except as provided in subdivision (4) of this subsection;

(2) For any misdemeanor, one year;

(3) For any infraction, six months;

(4) For any violation of section 569.040, when classified as a class B felony, or any violation of section 569.050 or 569.055, five years.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, for purposes of offenses committed pursuant to sections 407.511 to 407.556; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; and

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three

1 years.

2 4. An offense is committed either when every element occurs, or, if a legislative purpose to
3 prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or
4 the defendant's complicity therein is terminated. Time starts to run on the day after the offense is
5 committed.

6 5. A prosecution is commenced for a misdemeanor or infraction when the information is
7 filed and for a felony when the complaint or indictment is filed.

8 6. The period of limitation does not run:

9 (1) During any time when the accused is absent from the state, but in no case shall this
10 provision extend the period of limitation otherwise applicable by more than three years; or

11 (2) During any time when the accused is concealing himself from justice either within or
12 without this state; or

13 (3) During any time when a prosecution against the accused for the offense is pending in this
14 state; or

15 (4) During any time when the accused is found to lack mental fitness to proceed pursuant to
16 section 552.020.

17 556.037. Notwithstanding the provisions of section 556.036, prosecutions for unlawful
18 sexual offenses involving a person eighteen years of age or under must be commenced within thirty
19 years after the victim reaches the age of eighteen unless the prosecutions are for rape in the first
20 degree, forcible rape, attempted rape in the first degree, attempted forcible rape, sodomy in the first
21 degree, forcible sodomy, kidnapping, attempted sodomy in the first degree, or attempted forcible
22 sodomy in which case such prosecutions may be commenced at any time.

23 556.061. In this code, unless the context requires a different definition, the following shall
24 apply:

25 (1) "Affirmative defense" has the meaning specified in section 556.056;

26 (2) "Burden of injecting the issue" has the meaning specified in section 556.051;

27 (3) "Commercial film and photographic print processor", any person who develops exposed
28 photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for
29 compensation. The term commercial film and photographic print processor shall include all
30 employees of such persons but shall not include a person who develops film or makes prints for a
31 public agency;

32 (4) "Confinement":

33 (a) A person is in confinement when such person is held in a place of confinement pursuant
34 to arrest or order of a court, and remains in confinement until:

35 a. A court orders the person's release; or

36 b. The person is released on bail, bond, or recognizance, personal or otherwise; or

37 c. A public servant having the legal power and duty to confine the person authorizes his
38 release without guard and without condition that he return to confinement;

39 (b) A person is not in confinement if:

40 a. The person is on probation or parole, temporary or otherwise; or

41 b. The person is under sentence to serve a term of confinement which is not continuous, or is
42 serving a sentence under a work-release program, and in either such case is not being held in a place
43 of confinement or is not being held under guard by a person having the legal power and duty to
44 transport the person to or from a place of confinement;

45 (5) "Consent": consent or lack of consent may be expressed or implied. Assent does not
46 constitute consent if:

47 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged to
48 constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, [or] intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(6) "Criminal negligence" has the meaning specified in section 562.016;

(7) "Custody", a person is in custody when the person has been arrested but has not been delivered to a place of confinement;

(8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first degree, attempted rape in the first degree if physical injury results, attempted forcible rape if physical injury results, attempted sodomy in the first degree if physical injury results, attempted forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, and, abuse of a child [pursuant to subdivision (2) of subsection 3 of] if the child dies as a result of injuries sustained from conduct chargeable under section 568.060, child kidnapping, and parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153;

(9) "Dangerous instrument" means any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or metal knuckles;

(11) "Felony" has the meaning specified in section 556.016;

(12) "Forcible compulsion" means either:

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

(13) "Incapacitated" means that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act[. A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of such person's conduct or unable to communicate unwillingness to an act, after consenting to the act];

(14) "Infraction" has the meaning specified in section 556.021;

(15) "Inhabitable structure" has the meaning specified in section 569.010;

(16) "Knowingly" has the meaning specified in section 562.016;

(17) "Law enforcement officer" means any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

(18) "Misdemeanor" has the meaning specified in section 556.016;

(19) "Offense" means any felony, misdemeanor or infraction;

(20) "Physical injury" means physical pain, illness, or any impairment of physical condition;

(21) "Place of confinement" means any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

(22) "Possess" or "possessed" means having actual or constructive possession of an object

1 with knowledge of its presence. A person has actual possession if such person has the object on his
 2 or her person or within easy reach and convenient control. A person has constructive possession if
 3 such person has the power and the intention at a given time to exercise dominion or control over the
 4 object either directly or through another person or persons. Possession may also be sole or joint. If
 5 one person alone has possession of an object, possession is sole. If two or more persons share
 6 possession of an object, possession is joint;

7 (23) "Public servant" means any person employed in any way by a government of this state
 8 who is compensated by the government by reason of such person's employment, any person
 9 appointed to a position with any government of this state, or any person elected to a position with
 10 any government of this state. It includes, but is not limited to, legislators, jurors, members of the
 11 judiciary and law enforcement officers. It does not include witnesses;

12 (24) "Purposely" has the meaning specified in section 562.016;

13 (25) "Recklessly" has the meaning specified in section 562.016;

14 (26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons
 15 as part of an established or prescribed pattern of activity;

16 (27) "Serious emotional injury", an injury that creates a substantial risk of temporary or
 17 permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or
 18 physical condition. Serious emotional injury shall be established by testimony of qualified experts
 19 upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological
 20 certainty;

21 (28) "Serious physical injury" means physical injury that creates a substantial risk of death or
 22 that causes serious disfigurement or protracted loss or impairment of the function of any part of the
 23 body;

24 (29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual
 25 intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or
 26 the breast of a female in an act of apparent sexual stimulation or gratification;

27 (30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast
 28 of any female person, or any such touching through the clothing, for the purpose of arousing or
 29 gratifying sexual desire of any person;

30 (31) "Sexual performance", any performance, or part thereof, which includes sexual conduct
 31 by a child who is less than seventeen years of age;

32 (32) "Voluntary act" has the meaning specified in section 562.011.

33 558.018. 1. The court shall sentence a person [who has pleaded guilty to or] to an extended
 34 term of imprisonment if it finds the defendant is a persistent sexual offender and has been found
 35 guilty of [the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory
 36 sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection to
 37 an extended term of imprisonment if it finds the defendant is a persistent sexual offender] attempting
 38 to commit or committing the following offenses:

39 (1) Statutory rape in the first degree or statutory sodomy in the first degree;

40 (2) Rape in the first degree or sodomy in the first degree attempted or committed on or after
 41 August 28, 2013;

42 (3) Forcible rape committed or attempted any time during the period of August 13, 1980 to
 43 August 27, 2013;

44 (4) Forcible sodomy committed or attempted any time during the period of January 1, 1995
 45 to August 27, 2013;

46 (5) Rape committed or attempted before August 13, 1980;

47 (6) Sodomy committed or attempted before January 1, 1995.

48 2. A "persistent sexual offender" is one who has previously [pleaded guilty to or has been

found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection] been found guilty of attempting to commit or committing any of the offenses listed in subsection 1 of this section.

3. The term of imprisonment for one found to be a persistent sexual offender shall be imprisonment for life without eligibility for probation or parole. Subsection 4 of section 558.019 shall not apply to any person imprisoned under this subsection, and "imprisonment for life" shall mean imprisonment for the duration of the person's natural life.

4. The court shall sentence a person [who has pleaded guilty to or has] to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender and has been found guilty of [the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or] committing or attempting to commit any of the offenses listed in subsection 1 of this section or committing child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender.

5. For purposes of this section, a "predatory sexual offender" is a person who:

(1) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or] committing or attempting to commit any of the offenses listed in subsection 1 of this section, or committing child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony; or

(2) Has previously committed an act which would constitute an offense listed in subsection 4 of this section, whether or not the act resulted in a conviction; or

(3) Has committed an act or acts against more than one victim which would constitute an offense or offenses listed in subsection 4 of this section, whether or not the defendant was charged with an additional offense or offenses as a result of such act or acts.

6. A person found to be a predatory sexual offender shall be imprisoned for life with eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons found to be predatory sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or used in such subsection. Notwithstanding any other provision of law, in no event shall a person found to be a predatory sexual offender receive a final discharge from parole.

7. Notwithstanding any other provision of law, the court shall set the minimum time required to be served before a predatory sexual offender is eligible for parole, conditional release or other early release by the department of corrections. The minimum time to be served by a person found to be a predatory sexual offender who:

(1) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the preceding crimes] committing or attempting to commit any of the offenses listed in subsection 1 of this section and is found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section shall be any number of years but not less than thirty years;

(2) Has previously pleaded guilty to or has been found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony and [pleads guilty to or] is found guilty of attempting to commit or committing [forcible rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree] any of the offenses

1 listed in subsection 1 of this section shall be any number of years but not less than fifteen years;

2 (3) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible
3 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first
4 degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty
5 of] committing or attempting to commit any of the offenses listed in subsection 1 of this section, or
6 committing child molestation in the first degree when classified as a class B felony or sexual abuse
7 when classified as a class B felony shall be any number of years but not less than fifteen years;

8 (4) Has previously pleaded guilty to or has been found guilty of child molestation in the first
9 degree when classified as a class B felony or sexual abuse when classified as a class B felony, and
10 pleads guilty to or is found guilty of child molestation in the first degree when classified as a class B
11 felony or sexual abuse when classified as a class B felony shall be any number of years but not less
12 than fifteen years;

13 (5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of subsection
14 5 of this section shall be any number of years within the range to which the person could have been
15 sentenced pursuant to the applicable law if the person was not found to be a predatory sexual
16 offender.

17 8. Notwithstanding any provision of law to the contrary, the department of corrections, or
18 any division thereof, may not furlough an individual found to be and sentenced as a persistent sexual
19 offender or a predatory sexual offender.

20 558.026. 1. Multiple sentences of imprisonment shall run concurrently unless the court
21 specifies that they shall run consecutively; except [that,] in the case of multiple sentences of
22 imprisonment imposed for [the felony of rape, forcible rape, sodomy, forcible sodomy or] any
23 offense committed during or at the same time as, or multiple offenses of, the following felonies:

24 (1) Rape in the first degree, forcible rape, or rape;

25 (2) Statutory rape in the first degree;

26 (3) Sodomy in the first degree, forcible sodomy, or sodomy;

27 (4) Statutory sodomy in the first degree; or

28 (5) An attempt to commit any of the [aforesaid and for other offenses committed during or at
29 the same time as that rape, forcible rape, sodomy, forcible sodomy or an attempt to commit any of
30 the aforesaid, the sentences of imprisonment imposed for the other offenses may run concurrently,
31 but] felonies listed in this subsection.

32
33 In such case, the sentence of imprisonment imposed for [the felony of rape, forcible rape, sodomy,
34 forcible sodomy] any felony listed in this subsection or an attempt to commit any of the aforesaid
35 shall run consecutively to the other sentences. The sentences imposed for any other offense may run
36 concurrently.

37 2. If a person who is on probation, parole or conditional release is sentenced to a term of
38 imprisonment for an offense committed after the granting of probation or parole or after the start of
39 his conditional release term, the court shall direct the manner in which the sentence or sentences
40 imposed by the court shall run with respect to any resulting probation, parole or conditional release
41 revocation term or terms. If the subsequent sentence to imprisonment is in another jurisdiction, the
42 court shall specify how any resulting probation, parole or conditional release revocation term or
43 terms shall run with respect to the foreign sentence of imprisonment.

44 3. A court may cause any sentence it imposes to run concurrently with a sentence an
45 individual is serving or is to serve in another state or in a federal correctional center. If the Missouri
46 sentence is served in another state or in a federal correctional center, subsection 4 of section 558.011
47 and section 217.690 shall apply as if the individual were serving his sentence within the department
48 of corrections of the state of Missouri, except that a personal hearing before the board of probation

1 and parole shall not be required for parole consideration.

2 559.115. 1. Neither probation nor parole shall be granted by the circuit court between the
3 time the transcript on appeal from the offender's conviction has been filed in appellate court and the
4 disposition of the appeal by such court.

5 2. Unless otherwise prohibited by subsection [5] 8 of this section, a circuit court only upon
6 its own motion and not that of the state or the offender shall have the power to grant probation to an
7 offender anytime up to one hundred twenty days after such offender has been delivered to the
8 department of corrections but not thereafter. The court may request information and a
9 recommendation from the department concerning the offender and such offender's behavior during
10 the period of incarceration. Except as provided in this section, the court may place the offender on
11 probation in a program created pursuant to section 217.777, or may place the offender on probation
12 with any other conditions authorized by law.

13 3. The court may recommend placement of an offender in a department of corrections one
14 hundred twenty-day program under this [section] subsection or order such placement under
15 subsection 4 of section 559.036. Upon the recommendation or order of the court, the department of
16 corrections shall assess each offender to determine the appropriate one hundred twenty-day program
17 in which to place the offender, [including] which may include placement in the shock incarceration
18 program or institutional treatment program. When the court recommends and receives placement of
19 an offender in a department of corrections one hundred twenty-day program, the offender shall be
20 released on probation if the department of corrections determines that the offender has successfully
21 completed the program except as follows. Upon successful completion of a [treatment] program
22 under this subsection, the board of probation and parole shall advise the sentencing court of an
23 offender's probationary release date thirty days prior to release. [The court shall release the offender
24 unless such release constitutes an abuse of discretion. If the court determined that there is an abuse
25 of discretion, the court may order the execution of the offender's sentence only after conducting a
26 hearing on the matter within ninety to one hundred twenty days of the offender's sentence. If the
27 court does not respond when an offender successfully completes the program, the offender shall be
28 released on probation. Upon successful completion of a shock incarceration program, the board of
29 probation and parole shall advise the sentencing court of an offender's probationary release date
30 thirty days prior to release.] The court shall follow the recommendation of the department unless the
31 court determines that probation is not appropriate. If the court determines that probation is not
32 appropriate, the court may order the execution of the offender's sentence only after conducting a
33 hearing on the matter within ninety to one hundred twenty days [of the offender's sentence. If the
34 department determines that an offender is not successful in a program, then after one hundred days of
35 incarceration the circuit court shall receive from] from the date the offender was delivered to the
36 department of corrections. If the department determines the offender has not successfully completed
37 a one hundred twenty-day program under this subsection, the offender shall be removed from the
38 program and the court shall be advised of the removal. The department [of corrections a] shall
39 report on the offender's participation in the program and [department] may provide
40 recommendations for terms and conditions of an offender's probation. The court shall then [release
41 the offender on probation or order the offender to remain in the department to serve the sentence
42 imposed] have the power to grant probation or order the execution of the offender's sentence.

43 4. If the court is advised that an offender is not eligible for placement in a one hundred
44 twenty-day program under subsection 3 of this section, the court shall consider other authorized
45 dispositions. If the department of corrections one hundred twenty-day program under subsection 3
46 of this section is full, the court may place the offender in a private program approved by the
47 department of corrections or the court, the expenses of such program to be paid by the offender, or in
48 an available program offered by another organization. If the offender is convicted of a class C or

1 class D nonviolent felony, the court may order probation while awaiting appointment to treatment.

2 5. Except when the offender has been found to be a predatory sexual offender pursuant to
3 section 558.018, the court shall request [that the offender be placed in the sexual offender assessment
4 unit of the department of corrections] the department of corrections to conduct a sexual offender
5 assessment if the defendant has pleaded guilty to or has been found guilty of sexual abuse when
6 classified as a class B felony. Upon completion of the assessment, the department shall provide to
7 the court a report on the offender and may provide recommendations for terms and conditions of an
8 offender's probation. The assessment shall not be considered a one hundred twenty-day program as
9 provided under subsection 3 of this section. The process for granting probation to an offender who
10 has completed the assessment shall be as provided under subsections 2 and 6 of this section.

11 6. Unless the offender is being granted probation pursuant to successful completion of a one
12 hundred twenty-day program the circuit court shall notify the state in writing when the court intends
13 to grant probation to the offender pursuant to the provisions of this section. The state may, in
14 writing, request a hearing within ten days of receipt of the court's notification that the court intends
15 to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as
16 reasonably possible. If the state does not respond to the court's notice in writing within ten days, the
17 court may proceed upon its own motion to grant probation.

18 7. An offender's first incarceration [for one hundred twenty days for participation in a
19 department of corrections program] under this section prior to release on probation shall not be
20 considered a previous prison commitment for the purpose of determining a minimum prison term
21 under the provisions of section 558.019.

22 8. Notwithstanding any other provision of law, probation may not be granted pursuant to this
23 section to offenders who have been convicted of murder in the second degree pursuant to section
24 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28, 2013; rape in the
25 first degree under section 566.030; forcible sodomy pursuant to section 566.060 as it existed prior to
26 August 28, 2013; sodomy in the first degree under section 566.060; statutory rape in the first degree
27 pursuant to section 566.032; statutory sodomy in the first degree pursuant to section 566.062; child
28 molestation in the first degree pursuant to section 566.067 when classified as a class A felony; abuse
29 of a child pursuant to section 568.060 when classified as a class A felony; an offender who has been
30 found to be a predatory sexual offender pursuant to section 558.018; or any offense in which there
31 exists a statutory prohibition against either probation or parole.

32 559.117. 1. The director of the department of corrections is authorized to establish, as a
33 three-year pilot program, a mental health assessment process.

34 2. Only upon a motion filed by the prosecutor in a criminal case, the judge who is hearing
35 the criminal case in a participating county may request that an offender be placed in the department
36 of corrections for one hundred twenty days for a mental health assessment and for treatment if it
37 appears that the offender has a mental disorder or mental illness such that the offender may qualify
38 for probation including community psychiatric rehabilitation (CPR) programs and such probation is
39 appropriate and not inconsistent with public safety. Before the judge rules upon the motion, the
40 victim shall be given notice of such motion and the opportunity to be heard. Upon recommendation
41 of the court, the department shall determine the offender's eligibility for the mental health assessment
42 process.

43 3. Following this assessment and treatment period, an assessment report shall be sent to the
44 sentencing court and the sentencing court may, if appropriate, release the offender on probation. The
45 offender shall be supervised on probation by a state probation and parole officer, who shall work
46 cooperatively with the department of mental health to enroll eligible offenders in community
47 psychiatric rehabilitation (CPR) programs.

48 4. Notwithstanding any other provision of law, probation shall not be granted under this

1 section to offenders who:

2 (1) Have been found guilty of, or plead guilty to, murder in the second degree under section
3 565.021;

4 (2) Have been found guilty of, or plead guilty to, rape in the first degree under section
5 566.030 or forcible rape under section 566.030 as it existed prior to August 28, 2013;

6 (3) Have been found guilty of, or plead guilty to, statutory rape in the first degree under
7 section 566.032;

8 (4) Have been found guilty of, or plead guilty to, sodomy in the first degree under section
9 566.060 or forcible sodomy under section 566.060 as it existed prior to August 28, 2013;

10 (5) Have been found guilty of, or plead guilty to, statutory sodomy in the first degree under
11 section 566.062;

12 (6) Have been found guilty of, or plead guilty to, child molestation in the first degree under
13 section 566.067 when classified as a class A felony;

14 (7) Have been found to be a predatory sexual offender under section 558.018; or

15 (8) Have been found guilty of, or plead guilty to, any offense for which there exists a
16 statutory prohibition against either probation or parole.

17 5. At the end of the three-year pilot, the director of the department of corrections and the
18 director of the department of mental health shall jointly submit recommendations to the governor
19 and to the general assembly by December 31, 2015, on whether to expand the process statewide.

20 566.020. 1. [Whenever in this chapter the criminality of conduct depends upon a victim's
21 being incapacitated, no crime is committed if the actor reasonably believed that the victim was not
22 incapacitated and reasonably believed that the victim consented to the act. The defendant shall have
23 the burden of injecting the issue of belief as to capacity and consent.

24 2.] Whenever in this chapter the criminality of conduct depends upon a child being thirteen
25 years of age or younger, it is no defense that the defendant believed the child to be older.

26 [3.] 2. Whenever in this chapter the criminality of conduct depends upon a child being under
27 seventeen years of age, it is an affirmative defense that the defendant reasonably believed that the
28 child was seventeen years of age or older.

29 [4.] 3. Consent is not an affirmative defense to any offense under chapter 566 if the alleged
30 victim is less than twelve years of age.

31 566.030. 1. A person commits the [crime] offense of [forcible] rape in the first degree if
32 [such person] he or she has sexual intercourse with another person who is incapacitated, incapable of
33 consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion
34 includes the use of a substance administered without a victim's knowledge or consent which renders
35 the victim physically or mentally impaired so as to be incapable of making an informed consent to
36 sexual intercourse.

37 2. [Forcible] The offense of rape in the first degree or an attempt to commit [forcible] rape in
38 the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a
39 term of years not less than five years, unless:

40 (1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon
41 or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or
42 deviate sexual intercourse with more than one person, in which case the authorized term of
43 imprisonment is life imprisonment or a term of years not less than fifteen years;

44 (2) The victim is a child less than twelve years of age, in which case the required term of
45 imprisonment is life imprisonment without eligibility for probation or parole until the [defendant]
46 offender has served not less than thirty years of such sentence or unless the [defendant] offender has
47 reached the age of seventy-five years and has served at least fifteen years of such sentence, unless
48 such [forcible] rape in the first degree is described under subdivision (3) of this subsection; or

(3) The victim is a child less than twelve years of age and such [forcible] rape in the first degree or attempt to commit rape in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has [pleaded guilty to or has] been found guilty of [forcible] rape in the first degree or attempt to commit rape in the first degree when the victim is [under the age of] less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of [or pleading guilty to forcible] rape in the first degree or an attempt to commit [forcible] rape in the first degree shall be granted a suspended imposition of sentence or suspended execution of sentence.

[566.040.] 566.031. 1. A person commits the [crime] offense of [sexual assault] rape in the second degree if he or she has sexual intercourse with another person knowing that he or she does so without that person's consent.

2. [Sexual assault] The offense of rape in the second degree is a class C felony.

566.060. 1. A person commits the [crime] offense of [forcible] sodomy in the first degree if [such person] he or she has deviate sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. [Forcible] The offense of sodomy in the first degree or an attempt to commit [forcible] sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The victim is a child less than twelve years [of age] old, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the [defendant] offender has served not less than thirty years of such sentence or unless the [defendant] offender has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such [forcible] sodomy in the first degree is described under subdivision (3) of this subsection; or

(3) The victim is a child less than twelve years of age and such [forcible] sodomy in the first degree or attempt to commit sodomy in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has [pleaded guilty to or has] been found guilty of [forcible] sodomy in the first degree or an attempt to commit sodomy in the first degree when the victim is [under the age of] less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of [or pleading guilty to forcible] sodomy in the first degree or an attempt to commit [forcible] sodomy in the first degree shall be granted a suspended imposition of sentence or suspended execution of sentence.

[566.070.] 566.061. 1. A person commits the [crime of deviate sexual assault] offense of sodomy in the second degree if he or she has deviate sexual intercourse with another person knowing

1 that he or she does so without that person's consent.

2 2. [Deviate sexual assault] The offense of sodomy in the second degree is a class C felony.

3 566.093. 1. A person commits the [crime] offense of sexual misconduct in the [second] first
4 degree if such person:

5 (1) Exposes his or her genitals under circumstances in which he or she knows that his or her
6 conduct is likely to cause affront or alarm;

7 (2) Has sexual contact in the presence of a third person or persons under circumstances in
8 which he or she knows that such conduct is likely to cause affront or alarm; or

9 (3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a
10 third person.

11 2. The offense of sexual misconduct in the [second] first degree is a class B misdemeanor
12 unless the [actor] person has previously been [convicted] found guilty of an offense under this
13 chapter, in which case it is a class A misdemeanor.

14 566.095. 1. A person commits the [crime] offense of sexual misconduct in the [third] second
15 degree if he or she solicits or requests another person to engage in sexual conduct under
16 circumstances in which he or she knows that [his requests] such request or solicitation is likely to
17 cause affront or alarm.

18 2. The offense of sexual misconduct in the [third] second degree is a class C misdemeanor.

19 566.100. 1. A person commits the [crime] offense of sexual abuse in the first degree if he or
20 she subjects another person to sexual contact when that person is incapacitated, incapable of consent,
21 or lacks the capacity to consent, or by the use of forcible compulsion.

22 2. The offense of sexual abuse in the first degree is a class C felony unless in the course
23 thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument
24 in a threatening manner or subjects the victim to sexual contact with more than one person or the
25 victim is less than fourteen years of age, in which case [the crime] it is a class B felony.

26 [566.090.] 566.101. 1. A person commits the [crime] offense of sexual [misconduct] abuse
27 in the [first] second degree if [such person] he or she purposely subjects another person to sexual
28 contact without that person's consent.

29 2. The offense of sexual [misconduct] abuse in the [first] second degree is a class A
30 misdemeanor, unless the actor has previously been convicted of an offense under this chapter or
31 unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense
32 is committed as a part of a ritual or ceremony, in which case it is a class D felony.

33 566.224. No prosecuting or circuit attorney, peace officer, governmental official, or
34 employee of a law enforcement agency shall request or require a victim of rape in the second degree
35 under section 566.031, sexual assault under section 566.040 as it existed prior to August 28, 2013,
36 rape in the first degree under section 566.030, or forcible rape under section 566.030 as it existed
37 prior to August 28, 2013 to submit to any polygraph test or psychological stress evaluator exam as a
38 condition for proceeding with a criminal investigation of such crime.

39 566.226. 1. After August 28, 2007, any information contained in any court record, whether
40 written or published on the internet, that could be used to identify or locate any victim of sexual
41 assault, domestic assault, stalking, rape in the first or second degree, or forcible rape shall be closed
42 and redacted from such record prior to disclosure to the public. Identifying information shall include
43 the name, home or temporary address, telephone number, Social Security number or physical
44 characteristics.

45 2. If the court determines that a person or entity who is requesting identifying information of
46 a victim has a legitimate interest in obtaining such information, the court may allow access to the
47 information, but only if the court determines that disclosure to the person or entity would not
48 compromise the welfare or safety of such victim.

3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding over a sexual assault, domestic assault, stalking, [or] forcible rape, or rape in the first or second degree case shall have the discretion to publicly disclose identifying information regarding the defendant which could be used to identify or locate the victim of the crime. The victim may provide a statement to the court regarding whether he or she desires such information to remain closed. When making the decision to disclose such information, the judge shall consider the welfare and safety of the victim and any statement to the court received from the victim regarding the disclosure.

589.015. As used in sections 589.010 to 589.040:

(1) The term "center" shall mean the state center for the prevention and control of sexual assault established pursuant to section 589.030;

(2) The term "sexual assault" shall include:

(a) The acts of rape in the first or second degree, forcible rape, rape, statutory rape in the first degree, statutory rape in the second degree, sexual assault, sodomy in the first or second degree, forcible sodomy, sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, deviate sexual assault, sexual misconduct and sexual abuse, or attempts to commit any of the aforesaid, as these acts are defined in chapter 566;

(b) The act of incest, as this act is defined in section 568.020;

(c) The act of abuse of a child, as defined in subdivision (1) of subsection 1 of section 568.060, which involves sexual contact, and as defined in subdivision (2) of subsection 1 of section 568.060;

(d) The act of use of a child in a sexual performance as defined in section 568.080; and

(e) The act of enticement of a child, as defined in section 566.151, or any attempt to commit such act.

590.700. 1. As used in this section, the following terms shall mean:

(1) "Custodial interrogation", the questioning of a person under arrest, who is no longer at the scene of the crime, by a member of a law enforcement agency along with the answers and other statements of the person questioned. "Custodial interrogation" shall not include:

(a) A situation in which a person voluntarily agrees to meet with a member of a law enforcement agency;

(b) A detention by a law enforcement agency that has not risen to the level of an arrest;

(c) Questioning that is routinely asked during the processing of the arrest of the suspect;

(d) Questioning pursuant to an alcohol influence report;

(e) Questioning during the transportation of a suspect;

(2) "Recorded" and "recording", any form of audiotape, videotape, motion picture, or digital recording.

2. All custodial interrogations of persons suspected of committing or attempting to commit murder in the first degree, murder in the second degree, assault in the first degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, arson in the first degree, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, kidnapping, statutory rape in the first degree, statutory sodomy in the first degree, child abuse, or child kidnapping shall be recorded when feasible.

3. Law enforcement agencies may record an interrogation in any circumstance with or without the knowledge or consent of a suspect, but they shall not be required to record an interrogation under subsection 2 of this section:

(1) If the suspect requests that the interrogation not be recorded;

(2) If the interrogation occurs outside the state of Missouri;

(3) If exigent public safety circumstances prevent recording;

1 (4) To the extent the suspect makes spontaneous statements;
 2 (5) If the recording equipment fails; or
 3 (6) If recording equipment is not available at the location where the interrogation takes
 4 place.

5 4. Each law enforcement agency shall adopt a written policy to record custodial
 6 interrogations of persons suspected of committing or attempting to commit the felony crimes
 7 described in subsection 2 of this section.

8 5. If a law enforcement agency fails to comply with the provisions of this section, the
 9 governor may withhold any state funds appropriated to the noncompliant law enforcement agency if
 10 the governor finds that the agency did not act in good faith in attempting to comply with the
 11 provisions of this section.

12 6. Nothing in this section shall be construed as a ground to exclude evidence, and a violation
 13 of this section shall not have impact other than that provided for in subsection 5 of this section.
 14 Compliance or noncompliance with this section shall not be admitted as evidence, argued,
 15 referenced, considered or questioned during a criminal trial.

16 7. Nothing contained in this section shall be construed to authorize, create, or imply a private
 17 cause of action.

18 632.480. As used in sections 632.480 to 632.513, the following terms mean:

19 (1) "Agency with jurisdiction", the department of corrections or the department of mental
 20 health;

21 (2) "Mental abnormality", a congenital or acquired condition affecting the emotional or
 22 volitional capacity which predisposes the person to commit sexually violent offenses in a degree
 23 constituting such person a menace to the health and safety of others;

24 (3) "Predatory", acts directed towards individuals, including family members, for the
 25 primary purpose of victimization;

26 (4) "Sexually violent offense", the felonies of rape in the first degree, forcible rape, rape,
 27 statutory rape in the first degree, sodomy in the first degree, forcible sodomy, sodomy, statutory
 28 sodomy in the first degree, or an attempt to commit any of the preceding crimes, or child molestation
 29 in the first or second degree, sexual abuse, sexual abuse in the first degree, rape in the second degree,
 30 sexual assault, sexual assault in the first degree, sodomy in the second degree, deviate sexual assault,
 31 deviate sexual assault in the first degree, or the act of abuse of a child [as defined in subdivision (1)
 32 of subsection 1 of section 568.060 which involves sexual contact, and as defined in subdivision (2)
 33 of subsection 1 of section 568.060] involving either sexual contact, a prohibited sexual act, sexual
 34 abuse, or sexual exploitation of a minor, or any felony offense that contains elements substantially
 35 similar to the offenses listed above;

36 (5) "Sexually violent predator", any person who suffers from a mental abnormality which
 37 makes the person more likely than not to engage in predatory acts of sexual violence if not confined
 38 in a secure facility and who:

39 (a) Has pled guilty or been found guilty, or been found not guilty by reason of mental disease
 40 or defect pursuant to section 552.030 of a sexually violent offense; or

41 (b) Has been committed as a criminal sexual psychopath pursuant to section 632.475 and
 42 statutes in effect before August 13, 1980.

43 Section B. Because immediate action is necessary to protect children the repeal and
 44 reenactment of sections 556.061 and 568.060 of section A of this act is deemed necessary for the
 45 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be
 46 an emergency act within the meaning of the constitution, and the repeal and reenactment of sections
 47 556.061 and 568.060 of section A of this act shall be in full force and effect upon its passage and
 48 approval."; and

- 1
- 2 Further amend said bill by amending the title, enacting clause, and intersectional references
- 3 accordingly.